

Robert Jacobsen  
P.O. Box 1386  
Lafayette, CA 94549  
925 890-8619  
(Fax) 925 476-0220  
[rejacobsen@aol.com](mailto:rejacobsen@aol.com)  
Pro se

FILED  
JUL 17 2009  
CLERK OF COURT  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SAN ANTONIO

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

In re:  
ROBERT EDWIN JACOBSEN  
xxx-xx-2723  
P.O. Box 1386  
Lafayette, CA 94549  
Debtor

§  
§  
§  
§  
§  
§  
§  
§

Case No. 07-41092

Chapter 7

---

**DEBTOR'S OBJECTION TO TRUSTEE'S MOTION TO VACATE ORDERS TO  
ABANDON REAL PROPERTY**

Robert Jacobsen files this Objection to the Trustee's motion to vacate orders to  
abandon real property as follows:

**Facts:**

The Trustee has filed this motion to vacate claiming the Debtor had prior  
knowledge that there were problems with the note and deed of trust.

Houses in question:

- |    |                                |                   |
|----|--------------------------------|-------------------|
| 1. | 7804 Steppington Dr, Plano, TX | Abandoned 2/17/09 |
| 2. | 1318 Normandy Lane, Allen, TX  | Abandoned 3/8/09  |
| 3. | 1523 Streams Way, Allen, TX    | Abandoned 6/1/09  |

4. 1309 Cassandra Lane, Allen, TX Abandoned 2/17/09

**Time Line of Events**

5/25/07 Debtor filed for chapter 13 bankruptcy protection.

12/5/07 Conversion of bankruptcy from Chapter 13 to Chapter 7.

1/1/08 The Trustee held the subject properties from just after conversion until they were abandoned. During that time the Trustee failed to make mortgage payments on all of the properties. By the time the properties were abandoned back to Debtor and his wife, the only way to save the properties was to refinance. Debtor and his wife did not have the money to bring current all back payments.

2/17/09 Steppington and Cassandra houses abandoned by court. See

**EXHIBIT A**

3/8/09 Normandy house abandoned by court. See **EXHIBIT A**

March 2009: Debtor and his wife applied to refinance the houses with Starwood Mortgage.

4/27/09 Starwood Mortgage issued conditional loan approval. Loan approval letter called for the lender to deliver to escrow a certified copy of the note. See

**EXHIBIT B**

6/1/09 Streams Way house abandoned by court. See **EXHIBIT C**

6/17/09 Alise Malikyar, Debtor's wife, ("**Malikyar**") mailed a letter to Aurora Loan Services requesting they send the certified copy of the note to the escrow holder, Commonwealth Land Title, Lisa Hart ("**Hart**"). See **EXHIBIT D**

6/24/09 Hart phones each lender on all houses to request the copy of the note. Hart sends an email to Debtor stating "I phoned all lenders for request of Notes and was told no." See **EXHIBIT E**

6/26/09 Hart sends faxes to each lender requesting they "Pls provide certified copy of note". See **EXHIBIT F**

The lenders all individually refused to provide the certified copy of the note. The new financing could not close. By the end of June this became apparent.

6/31/09 A complaint was filed on Streams, Normandy and Cassandra, but was later cancelled mostly due to improper jurisdiction. See **EXHIBIT G** for copy of complaint for Cassandra. (The remaining complaints are almost the same except for the house and the different lenders. The other complaints are not attached here to keep the size of this objection from getting very thick, but are available upon the court's request.)

10/5/09 – 10/22/09 Debtor files suit against the lenders due to the new loan being lost due to the lender's negligence. In the process of doing research preparing for the suit, Debtor discovered that it appeared the recorded Deed of Trust had been altered in each case. Debtor and Malikyar are from California and are familiar with the doctrine of good faith and fair dealing. When Debtor and Malikyar found out Texas never adopted this doctrine, Debtor and Malikyar wrote the words on the bottom of the note, as well as deed of trust, or, attached it as an addendum. When the Deed of Trust was recorded it seemed to have disappeared.

All of Debtor's suits against the lenders are almost the same. The new lender, Starwood Mortgage, was the same lender on each loan and requested the certified copy of the note in each case, and in each case, the existing lender's refused.

### **CONCLUSION: OBJECTION TO TRUSTEE'S MOTION**

The Trustee tries to make a case that the Debtor should have shown on his schedules the loss of the new financing and/or the newly discovered problems with the way the Deed of Trust was recorded on the subject houses. Since the lender's refusal to produce a copy of the note was not realized until after the last attempt to request the copies of the note, June 26, 2009 and the court abandoned all the houses months before this, except the Streams Way house, which was June 1, 2009, the Debtor would have to have had the ability to see the future to predict this in order to put this information on his schedules or in fact have knowledge of this event prior to abandonment.

The fact that the words about the "doctrine of good faith and fair dealing" being left off the various Deed of Trusts was not discovered until after the houses were abandoned and long after the schedules were prepared. In paragraph 30 of the Trustee's motion he states the Debtor should have notified the Trustee of the claims that were stated in the lawsuits filed. Since the Debtor had no knowledge that the existing lenders were going to frustrate the Debtor's and Malikyar's attempt to refinance which led to the discovery of the altered Deed of Trusts, it therefore would have been impossible for the Debtor to notify the Trustee prior to the houses abandonment. The event had not happened yet.

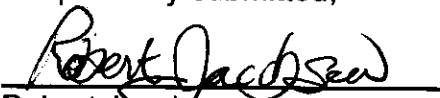
The last sentence in the Trustee's motion states the Debtor was remiss by not informing the Trustee of this knowledge that the existing liens may be void. In Debtor's complaints he claims a cause of action of "Refusal of Tender" arguing the existing debts should be extinguished due to the lenders lack of cooperation in sending in the copy of the note. The knowledge that the lenders would frustrate the efforts to refinance was not known until long after the houses were abandoned by the court.

In each of the 4 complaints against the lenders, the Debtor has also requested the various lenders to produce the original note. This is not due to information Debtor had prior to abandonment, but was triggered by the questionable behavior of the various lenders displayed. The loss of the financing is post abandonment as was any knowledge of refusal of tender, refusal to produce a copy of the note or altered Deeds of Trusts. The Trustee's motion is inappropriate. By reading over the complaints against the lenders he would have knowledge that this is a "post abandonment" issue.

WHEREFORE, Debtor requests of the court, for all the foregoing reasons, the Trustee's motion to vacate orders abandoning Real Property be denied. The Trustee's motion is a frivolous motion for which he knows all events happened post abandonment. Debtor requests the court consider sanctions for this motion.

Dated: March 5, 2010

Respectively submitted,



Robert Jacobsen  
P.O. Box 1386  
Lafayette, CA 94549

DEBTOR'S OBJECTION TO TRUSTEE'S MOTION TO VACATE ORDERS TO ABANDON REAL PROPERTY

925 988-9890  
Fax 407 209-2126  
[rejacobsen@aol.com](mailto:rejacobsen@aol.com)  
Pro-se

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 5, 2010, he served a true and correct copy of the foregoing Objection to Trustee's Motion to Vacate Orders to Abandon Real Property, was mailed by First Class United States mail, correct postage prepaid, upon the following parties:

  
\_\_\_\_\_  
Osman Malikyar

Label Matrix for local noticing  
0540-4  
Case 07-41092  
Eastern District of Texas  
Sherman  
Wed Feb 17 11:20:38 CST 2010

(p)ADVANTA  
WELSH AND MCKEAN RD  
P O BOX 844  
SPRING HOUSE PA 19477-0844

Aurora Loan Services  
10350 Park Meadows Drive  
Littleton, CO 80124-6800

B-Real, LLC  
MS 550  
PO Box 91121  
Seattle, WA 98111-9221

Patti H. Bass  
Bass & Associates  
3936 E. Ft. Lowell Rd. Suite 200  
Tucson, AZ 85712-1083

Brian Davis, Esq.  
203 Redwood Shores Parkway  
Suite 480  
Redwood Shores CA 94065-6100

Carrington Mortgage Services, LLC  
1601 East Saint Andrews Place  
Irvine, CA 92705-4932

Charles R. Chesnutt  
Underwood, Perkins & Ralston, P.C.  
Two Lincoln Centre, Suite 1900  
5420 LBJ Freeway  
Dallas, TX 75240-6222

(p)CITIMORTGAGE  
5280 CORPORATE DRIVE  
BANKRUPTCY DEPARTMENT  
ATTENTION MC0023  
FREDERICK MD  
21703-8351

Cory Nichols  
1920 Monument Blvd  
Concord CA 94520-3800

Ford Motor Credit Company LLC  
P.O. Box 537901  
Livonia, MI 48153-7901

Kadra D. Alexander  
Barrett Daffin Frappier Turner & Engel  
15000 Surveyor Blvd.  
Addison, TX 75001-4417

Aurora Loan Services  
601 Fifth Ave.  
Scottsbluff, NE 69361-3581

Bank of America  
PO Box 15026  
Wilmington DE 19850-5026

Alane A. Becket  
Becket & Lee LLP  
PO Box 3001  
Malvern, PA 19355-0701

Mitchell J. Buchman  
Barrett Daffin Frappier Turner & Engel  
1900 St. James Place, Suite 500  
Houston, TX 77056-4125

Chase Bank USA, N.A.  
PO Box 15145  
Wilmington, DE 19850-5145  
k

Citi Cards  
PO Box 6000  
The Lakes NV 89163-0001

Lisa L. Cockrell  
Codilis & Stawiariski, PC  
650 N. Sam Houston Parkway East  
Ste. 450  
Houston, TX 77060-5908

Janna L. Countryman  
P. O. Box 941166  
Plano, TX 75094-1166

Damian W. Abreo  
Baxter Schwartz & Shapiro, LLP  
5450 NW Central  
Suite 307  
Houston, TX 77092-2063

Aurora Loan Services  
10350 Park Meadows Drive  
Littleton CO 80124-6800

Aurora Loan Services  
P.O. Box 173930  
Denver, CO 80217-3930

Bank of America/FIA Card Services formerly M  
by eCAST Settlement Corporation  
as its agent  
POB 35480  
Newark NJ 07193-0001

Bernadette Sramek  
c/o Harold M Jaffee, Esq.  
3521 Grand Avenue  
Oakland CA 94610-2011

CHASE BANK USA, NA.  
PO BOX 15145  
WILMINGTON, DE 19850-5145

Chase Card Services  
PO Box 94014  
Palatine IL 60094-4014

CitiMortgage, Inc.  
c/o Joe Lozano  
PO Box 829009  
Dallas, TX 75382-9009

Ginger Colville  
Bassel & Wilcox  
P.O. Box 11509  
Fort Worth, TX 76110-0509

Michael Crane  
6486 Bordeaux  
Dallas, TX 75209-5776

Mary A. Daffin  
Barrett Daffin Frappier Turner & Engel  
1900 St. James Place  
Suite 500  
Houston, TX 77056-4125

Brian R. Davis  
Hayes Davis Bonino, et al  
203 Redwood Shores Pkwy., Ste 480  
Redwood Shores, CA 94065-6100

Ford Motor Credit  
P.O. Box 7172  
Pasadena, CA 91109-7172

Ford Motor Credit Company LLC  
Bassel and Wilcox  
P.O. Box 11509  
Fort Worth, TX 76110-0509

General Motors  
Dept 9600  
Carol Stream IL 60128-0001

GreenPoint Mortgage Funding, Inc.  
c/o BAC Home Loans Servicing, L.P.  
2270 Lakeside Boulevard  
Richardson, TX 75082-4304

Greenpoint Mortgage Funding, Inc.  
c/o Polk Prober & Raphael  
P.O. Box 4365  
Woodland Hills, CA 91365-4365

Gabrielle A. Hannon  
Singer Levick, P.C.  
16200 Addison Road., Ste. 140  
Addison, TX 75001-5376

Harold M. Jaffe, Esq.  
3521 Grand Avenue  
Oakland, CA 94610-2011

Hayes Davis Bonino Ellingson McLay & Scott,

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 21126  
PHILADELPHIA PA 19114-0326

Robert Edwin Jacobsen  
P.O. Box 1386  
Lafayette, CA 94549-1386

Jana Countryman  
Chapter 13 Trustee  
500 North Central Expressway  
Suite 350  
Plano TX 75074-6791

John E. Johnson, Esq  
Jameson and Dunagan, P.C.  
3890 W. Northwest Highway, Suite 550  
Dallas, TX 75220-8118

John P. Lewis, Jr.  
1412 Main Street, Suite 210  
Dallas, TX 75202-4071

John Sramek  
c/o Harold M Jaffe, Esq.  
3521 Grand Avenue  
Oakland CA 94610-2011

John Sramek/Bernadette Sramek  
c/o John P. Lewis, Jr.  
1412 Main Street, No. 210  
Dallas, TX 75202-4071

John E. Johnson  
Jameson and Dunagan, P.C.  
3890 W Northwest Highway, Suite 550  
Dallas, TX 75220-8118

Paul K. Kim  
Barrett Daffin Frappier Turner & Engel  
15000 Surveyor Blvd. Suite 100  
Addison, TX 75001-4417

Larry A. Levick  
Singer & Levick, P.C.  
16200 Addison Rd.  
Suite 140  
Addison, TX 75001-5376

Joyce W. Lindauer  
8140 Walnut Hill Lane  
Suite 301  
Dallas, TX 75231-4328

Joe Lozano  
Brice, Vander Linden & Wernick, PC  
9441 LBJ Frwy., Ste. 350  
Dallas, TX 75243-4652

ALISE MALIKYAR  
P.O. Box 1386  
Lafayette, CA 94549-1386

June A Mann  
Mann & Stevens, P.C.  
550 Westcott Street  
Suite 560  
Houston, TX 77007-9000

Mick McLaughlin  
Remax Accord  
3390 Mt.Diablo Blvd.  
Lafayette, CA 94549-4006

Michael S. Margolf, Esq.  
Moss Codilis, LLP  
6560 Greenwood Plaza Blvd., Suite 550  
Englewood, CO 80111-7104

Christopher Moser  
2001 Bryan Street, Suite 1800  
Dallas, TX 75201-3070

Mr. Timothy E. Carlson  
c/o J.E. Johnson  
Jameson and Dunagan, P.C.  
3890 W. Northwest Hwy., Ste. 550  
Dallas TX 75220-8118

Cole D. Patton  
1255 West 15th Street  
Suite 1060  
Plano, TX 75075-4220

Portfolio Recovery Associates, LLC  
PO Box 41067  
Norfolk, VA 23541-1067



William P. Rossini  
1201 Main Street  
Suite 2470  
Dallas, TX 75202-3902

William Paul Rossini  
Rossini, PLLC  
1201 Main Street  
Suite 2470  
Dallas, TX 75202-3902

Marcus Salitore  
US Trustee Office  
110 N. College Ave., Room 300  
Tyler, TX 75702-7231

Saxon Mortgage  
1270 Northland Drive, Suite 200  
Mendota Heights, MN 55120-1176

Saxon Mortgage  
4708 Mercantile Drive  
Fort Worth, TX 76137-3605

Saxon Mortgage Services Inc  
PO Box 161489  
Fort Worth TX 76161-1489

James L. Schutza  
7920 Beltline Road  
Suite 650  
Dallas, TX 75254-8115

Laurie Share  
44 Medway Road  
San Anselmo, CA 94960-1853

Peter Smart  
Crain Caton & James, P.C.  
1401 McKinney, Ste. 1700  
Houston, TX 77010-1079

South Shore Capital, Inc.  
1817 Moreno Blvd.  
Suite A  
San Diego, CA 92110-3651

John Sramek  
c/o Harold Jaffe, Attorney  
3521 Grand Avenue  
Oakland, CA 94610-2011

Mark Stromberg  
Stromberg Stock  
Two Lincoln Center  
5420 LBJ Freeway, Suite 300  
Dallas, TX 75240-6271

Timothy Carlson CPA PC  
c/o Malcom A King Esq.  
1850 Mt Diablo Blvd  
Suite 445  
Walnut Creek CA 94596-4414

Timothy D. Carlson, C.P.A.  
a professional corporation  
c/o Jameson and Dunagan, P.C.  
3890 W. Northwest Hwy., Ste 550  
Dallas TX 75220-8118

Timothy E. Carlson, C.P.A., a professional c  
ATTN: Law Office of Michael W. Perna  
One Kaiser Plaza  
Suite 750  
Oakland, CA 94612-3611

(p)TOYOTA MOTOR CREDIT CORPORATION  
PO BOX 8026  
CEDAR RAPIDS IA 52408-8026

Toyota Motor Credit Corporation  
3200 West Ray Rd.  
Chandler, AZ 85226-2450

U.S. Attorney General  
Department of Justice  
Main Justice Building  
10th & Constitution Ave., NW  
Washington, DC 20530-0001

US Trustee  
Office of the U.S. Trustee  
110 N. College Ave.  
Suite 300  
Tyler, TX 75702-7231

United States Attorney's Office  
110 North College Avenue  
Suite 700  
Tyler TX 75702-7237

United States Trustee's Office  
110 North College Avenue  
Suite 300  
Tyler TX 75702-7231

WELLS FARGO BANK  
P.O. BOX 53476  
Phoenix, AZ 85072-3476

WELLS FARGO OPERATION CENTER  
LOAN SERVICING PAYMENT PROCESSING  
7412 JEFFERSON BLVD NE  
ALBUQUERQUE, NM 87109-4336

Wells Fargo Bank  
Business Direct Division BK Dept  
MAC S4101-050  
P O Box 53476  
Phoenix AZ 85072-3476

Wells Fargo Bank NA  
PO Box 4233  
Portland OR 97208-4233

Wells Fargo Business Line  
PO Box 348750  
Sacramento CA 95834-8750

eCAST POB Wells Fargo  
PO Box 7247-6971  
Philadelphia, PA 19170-0001

eCAST POB Wells Fargo  
Bass & Associates, P.C.  
3936 E. Ft. Lowell Rd., Ste. 200  
Tucson, AZ 85712-1083

eCAST Settlement Corporation  
POB 35480  
Newark, NJ 07193-0001

eCAST Settlement Corporation assignee of  
Advanta Bank Corp  
POB 35480  
Newark NJ 07193-0001

eCAST Settlement Corporation assignee of  
HSBC Bank Nevada NA / HSBC Card  
Services III  
POB 35480  
Newark NJ 07193-0001

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Advanta Bank Corp  
PO Box 8088  
Philadelphia PA 19101-8088

CitiMortgage, Inc.  
5280 Corporate Dr. Cash Processing MC025  
Frederick, Maryland 21703

Internal Revenue Service  
PO Box 21126  
Philadelphia PA 19114

Toyota Motor Credit Corp.  
19001 S. Western Avenue, WF21  
PO box 2958  
Torrance, CA 90509

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Aurora Loan Services

(u)Chase Home Finance LLC

(u)Charles Cone III

(u)Countrywide Home Loans Servicing, L.P.

(u)Countrywide Home Loans, Inc.

(d)John P Lewis Jr.  
1412 Main Street, Suite 210  
Dallas, TX 75202-4071

(d)John P. Lewis Jr.  
1412 Main Street, Suite 210  
Dallas, TX 75202-4071

(d)Joyce W. Lindauer  
8140 Walnut Hill Lane  
Suite 301  
Dallas, TX 75231-4328

(d)Christopher Moser  
2001 Bryan Street, Suite 1800  
Dallas, TX 75201-3070

(d)Portfolio Recovery Associates, LLC.  
POB 41067  
NORFOLK VA 23541-1067

(u)WELLS FARGO BANK, N.A.,

(d)eCAST FOB Wells Fargo  
P.O. Box 7247-6971  
Philadelphia, PA 19170-0001

(d)eCAST Settlement Corporation  
POB 35480  
Newark NJ 07193-0001

End of Label Matrix  
Mailable recipients 90  
Bypassed recipients 13  
Total 103